

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Kimberly Sawyer

Case No. 20-cv-2224 (JRT/LIB)

Plaintiff,

v.

**REPORT AND RECOMMENDATION**

Hartford Life and Accident Insurance Company,

Defendant.

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This matter comes before the undersigned United States Magistrate Judge upon the routine supervision of the cases that pend before the Court, pursuant to a general assignment made in accordance with the provisions of 28 U.S.C. § 636.

Plaintiff commenced the present action on October 26, 2020, by filing her Complaint. (Compl. [Docket No. 1]). More than 90 days after Plaintiff filed her Complaint, Plaintiff had not provided proof of service of a summons and Complaint on Defendant Hartford Life and Accident Insurance Company.

Accordingly, the Court issued an Order notifying Plaintiff that the Federal Rules of Civil Procedure require plaintiffs to demonstrate proof of service “within 90 days after the complaint is filed, [or] the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m). Pursuant to Rule 4(m), the Court directed Plaintiff to provide proof of service or demonstrate good cause for an extension of time to serve Defendant, failing which the Court would recommend dismissal for failure to effect proper service and failure to prosecute. (Order [Docket No. 4]).

The time for Plaintiff to provide proof of service or demonstrate good cause for an extension of time to serve Defendant has come and gone, and Plaintiff has neither provided proof of service nor articulated good cause as to why the Court should grant her an extension of time to do so. In fact, Plaintiff has failed to take any action in the present case since the time she filed her Complaint.

Therefore, pursuant to Rule 4(m), **IT IS HEREBY RECOMMENDED** that Plaintiff's Complaint, [Docket No. 1], be **DISMISSED without prejudice** for failure to effect service and for lack of prosecution, unless Plaintiff, within the 14-day period to object to this Report and Recommendation, provide proof of service or demonstrates good cause for an extension of time to serve Defendant. See, Widtfeldt v. Daugherty, 587 F. App'x 992 (8th Cir. 2014) (*per curiam*, unpublished) (holding that the district court did not abuse its discretion in dismissing the action without prejudice when plaintiff failed to establish that he had properly effected service within time provided for in the Federal Rules of Civil Procedure).

Dated: March 2, 2021

s/Leo I. Brisbois  
Hon. Leo I. Brisbois  
U.S. MAGISTRATE JUDGE

### NOTICE

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "A party may file and serve specific written objections to a magistrate judge's proposed findings and recommendation within 14 days after being served with a copy of the recommended disposition[.]" A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in LR 72.2(c).